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NEW HAMPSHIRE LAW LIBRARY

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CONCORD, N.H.

Mr. Ralph G. Carpenter, 2nd  
Director  
State of New Hampshire  
Fish and Game Department  
Concord, New Hampshire

Dear Mr. Carpenter:

You have requested our advice as to the effect of the 1955 laws on the license requirements for sale of lobster meat.

It is my opinion that section 9 of chapter 308, Laws of 1955 provides merely that lobster meat, in hermetically sealed cans, not requiring refrigeration, when the contents of the can do not exceed eight ounces, may be sold, transported and possessed without violating the requirements of RSA 211:27. In addition, RSA 211:30, relative to mutilated lobster meat does not apply to said sealed cans. As far as the requirement that a license must be obtained for the sale of lobster meat, RSA 211:38 specifically states that lobster meat in said hermetically sealed cans not requiring refrigeration may be sold without a license.

You have further inquired whether grocers may purchase for re-sale, horned pout from out-of-state breeders. The answer to this is in the negative. Horned pout raised by a licensee under the provisions of RSA 212:25 may be possessed, bought and sold for use as food. Out-of-state persons raising horned pout are not licensees within this act. This is further emphasized by the fact that the legislature specifically referred to brook trout raised outside of this state. There is no limit by statute as to the number of such fish that may be bought or sold.

Your third question relates to the sale of brook trout. RSA 212:30 as amended by section 1, chapter 33, Laws of 1955, provides for the sale of brook trout by a person licensed to raise said fish for sale. This section permits the purchase and sale for use as food "in hotels and restaurants." Section 2 of the said chapter 33

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also permits the sale of brook trout raised outside of the state for use as food "in hotels and restaurants", if they are frozen as well as properly tagged. Both out-of-state and in-state wholesalers must have a license to sell brook trout.

Your last question requests my interpretation of the word "bait", as used in RSA 211:3 as amended. In 1953, by chapter 177, the legislature provided that certain portions of the upper Connecticut river "shall be closed to all fishing except bait and fly fishing; the use of spinning rods and reels are hereby prohibited." The 1955 legislature amended this section by striking out the last phrase relative to the use of spinning equipment. Thus we must construe the words bait and fly fishing. Bait, as defined in Webster's New International Dictionary, 2nd Edition, reads as follows:

"Anything, especially food, used in catching fish  
... by alluring to a hook ...

"Anything that allures; a lure. Bait casting -  
The projection of a relatively heavy bait, whether  
natural or artificial, which carries out with it the  
light and soft line."

Words and phrases used in a statute are to be construed according to the common and approved usage of the language. RSA 21:2. Therefore it is my opinion that the word "bait" includes any and all types of lures used in catching fish.

Very truly yours,

Arthur E. Bean, Jr.  
Assistant Attorney General

AEB,Jr/T